



SECTION 6

Export/ Import Requirements

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TREATY REQUIREMENTS

Prohibitions related to exports and imports

General

- Each State Party is required to adopt the measures necessary to ensure any toxic chemical or precursor is only developed, produced, otherwise acquired, retained, transferred, or used in any place under its jurisdiction or control for purposes not prohibited (emphasis added).
 - This requirement is not limited to Scheduled chemicals or unscheduled discrete organic chemicals (DOCs) – it applies to all toxic chemicals and their precursors.
 - This requirement implements Article I prohibitions.

Schedule 1 Chemicals

- Exports and imports of Schedule 1 chemicals to or from persons in States not Party to the Convention are prohibited.
- Schedule 1 chemicals received from persons in another State Party are prohibited from retransfer to persons in a third State Party.
- Schedule 1 chemicals exported or imported may only be used for research, medical, pharmaceutical or protective purposes and the types and quantities must be justifiable for those purposes. Other end-uses are prohibited (e.g., industrial, agricultural).
- The total aggregate amount of Schedule 1 chemicals that may be possessed nationwide by a State Party at any given time may not exceed 1 tonne.

Schedule 2 Chemicals

- Exports and imports of Schedule 2 chemicals to or from persons in States not Party to the Convention are prohibited, except:
 - products containing one percent or less of a Schedule 2A or 2A* chemical;
 - products containing 10 percent or less of a Schedule 2B chemical; or
 - products identified as consumer goods packaged for retail sale for personal use, or packaged for individual use.

Schedule 3 Chemicals

- Exports of Schedule 3 chemicals to persons in States not Party to the Convention are prohibited unless:
 - the exporting State Party has received an End-Use Certificate; or
 - it is a product containing 30 percent or less of a Schedule 3 chemical; or
 - it is a product identified as a consumer good packaged for retail sale for personal use, or packaged for individual use.
- End-Use Certificates (EUCs) for Schedule 3 chemical exports to persons in a State not Party must be issued by a competent governmental authority of the State not Party, attesting that the Schedule 3 chemical will not be used for prohibited purposes and must include the following information:



- The chemical will only be used for purposes not prohibited under the Convention;
- The chemical will not be re-transferred;
- The types and quantities of the chemicals involved in the transfer;
- The end-use(s) of the chemical; and
- The name(s) and address(es) of the end-user(s).

Unscheduled Discrete Organic Chemicals (DOCs)

- There are no restrictions on the export or import of unscheduled DOCs for purposes not prohibited.

Export and Import Notification and Reporting Requirements

General

The export and import provisions of the treaty apply to persons, facilities and plant sites (declared and undeclared), and trading companies within a State Party.

Schedule 1

- Paragraphs 5 and 6 of Part VI of the Verification Annex require States Parties to submit notification of transfers of Schedule 1 chemicals as well as annual declarations regarding any transfers made during the previous calendar year.
- No exemptions:
 - There is a “0” threshold quantity for declaring exports and imports.
 - Any Schedule 1 chemical contained in a mixture is subject to notification and declaration.

Schedule 1 Notifications

- Prior to the export to or import from a State Party of any amount of a Schedule 1 chemical, both States Parties involved in the transfer must submit to the Technical Secretariat a notification of transfer at least 30 days before the transfer occurs, except:
 - Notifications of exports and imports of 5 milligrams or less of Saxitoxin for medical/diagnostic purposes may be transmitted to the Technical Secretariat at the time exported/imported.
- National Authorities generally exchange notifications between each other to ensure that the facts of proposed transactions are consistent.
- States Parties should build in additional time to receive notifications from industry to meet the CWC’s timeline for submission to the Technical Secretariat (i.e., 30 days or by the time of transfer, as the case may be).
- For each transfer, the notifications submitted by the sending and receiving States Parties to the Technical Secretariat should include the same information, as follows:
 - Chemical name;
 - Structural formula;



- CAS registry number (if assigned);
- Quantity involved;
- Planned date of transfer;
- Purpose for which the Schedule 1 chemical will be used;
- Source country name (exporting State Party);
- Name and address of exporter;
- Recipient country name (importing State Party); and
- Name and address of importer.

Annual Declaration on Transfers of Schedule 1 Chemicals

- Annually (not later than 90 days after the year in which the exports or imports occurred), each State Party must submit to the Technical Secretariat a detailed annual declaration on transfers made during the previous year. This declaration must include the following information for each chemical exported and imported:
 - Chemical name;
 - CAS registry number (if assigned);
 - Recipient or source country, as the case may be;
 - Name of recipient or source (always identify the entity in the other country);
 - Street address;
 - End-use; and
 - Date of transfer (date exported or date received).

Note: If a Schedule 1 notification was submitted to the Technical Secretariat and the transfer did not occur, inform the Technical Secretariat and do not include the transfer in your annual declaration.

Schedule 2

Aggregate National Data (AND) Declaration on Exports and Imports of Schedule 2 Chemicals

- Annually (not later than 90 days after the end of the previous calendar year), each State Party must submit an AND declaration on the quantities of each Schedule 2 chemical exported or imported during the previous calendar year, stating:
 - Chemical name;
 - CAS registry number (identify unit of weight, e.g., tonne/kilogram);
 - Total quantity exported and imported by all persons, trading companies or plant sites within the State Party; and
 - Total quantity exported to and imported from each State Party.
 - When the total quantity being reported for a given Schedule 2 chemical for that year for that activity is less than the threshold specified for that



chemical in subparagraphs 3(a), 3(b), or 3(c) of Part VII of the Verification Annex, the quantity should be expressed as “<(relevant threshold quantity)”.

- AND declarations are separate from the annual plant site declarations on production, processing and consumption of Schedule 2 chemicals.
- However, note that Schedule 2 plant site annual declarations on past activities must also include information on direct exports and imports by the plant site. Annual plant site declarations on past activities and on anticipated activities must also include the purposes for which the Schedule 2 chemical was, or is anticipated to be, produced, processed or consumed, including “direct exports”, with a specification of the States provided.

Note: See Section 5, “Declaration Regime” for detailed information on AND requirements.

- Exemptions for mixtures containing low concentrations
 - The OPCW has not established a mixture rule for Schedule 2A or 2A* chemicals. Absent such a decision, a State Party may establish its own low concentration exemption for declaring Schedule 2A and 2A* chemicals except in cases where the ease of recovery from the mixture of the Schedule 2 chemical and its total weight are deemed to pose a risk to the object and purpose of this Convention.
 - Transfers of mixtures containing 30% or less of a Schedule 2B chemical are not required to be declared.

Schedule 3

Aggregate National Data (AND) Declaration on Exports and Imports of Schedule 2 Chemicals

- Annually (not later than 90 days after the end of the previous calendar year), each State Party must submit an AND declaration on the quantities of each Schedule 3 chemical exported or imported during the previous calendar year, stating:
 - Chemical name;
 - CAS registry number (identify unit of weight, e.g., tonne/kilogram);
 - Total quantity exported and imported by all persons, trading companies or plant sites within the State Party; and
 - Total quantity exported to and imported from each State.
 - AND declarations are separate from plant site declarations on production of Schedule 3 chemicals.

Note: See Section 5, “Declaration Regime” for detailed information on AND requirements.

- Exemptions for mixtures containing low concentrations
 - Transfers of mixtures containing 30% or less of a Schedule 3 chemical are not required to be declared.



LEGISLATIVE AND ADMINISTRATIVE MEASURES

- Article VII requires each State Party to adopt the necessary legislative and administrative measures to implement its CWC obligations, including enacting penal legislation covering activities prohibited by the Convention and extending that penal legislation extraterritorially to activities undertaken anywhere by natural persons holding its nationality.
- Typically, the legislative and administrative measures in respect of exports and imports will include the following:
 - making it a criminal offence to participate in transfers banned or restricted by the Convention;
 - establishing the procedures by which lawful transfers will take place;
 - establishing the reporting requirements and procedures exporters and importers will follow to report declarable data to the National Authority;
 - establishing penalties for non-compliance.
- Regardless of whether a State Party produces Scheduled chemicals, the establishment of export and import requirements is necessary to:
 - Collect data on exports and imports of Scheduled chemicals;
 - Prevent unauthorized use of scheduled chemicals; and
 - Prevent unauthorized transshipments.
 - These measures are also required by United Nations Security Council Resolution 1540 and ensure compliance with it.
- In order to implement the export and import requirements of the CWC, each State Party must establish the legal authority to prohibit certain activities and compel the submission of data from persons on its territory or under its jurisdiction.
- While the CWC does not require a State Party to license or authorize the export or import of chemicals, many States Parties have established such mechanisms for national security reasons and to allow them to collect the data they need for the State Party's declarations to the OPCW.
- A State Party should develop and publish administrative rules (e.g., regulations (see Section 10 "Tools"/Regulations), decrees, directives) that:
 - Describe the persons subject to such rules, to include:
 - Facilities (including plant sites and plants);
 - Trading companies; and
 - Natural and legal persons anywhere on its territory or in any other place under a State Party's jurisdiction.
 - List the chemicals subject to CWC export/import controls.
 - Establish the export, import, and retransfer requirements of the CWC.



- Prohibitions:
 - exports and imports of any chemical when intended for activities prohibited by Article I;
 - exports to and imports from States not Party to the Convention for Schedule 1 and 2 chemicals;
 - any retransfers of Schedule 1 chemicals;
 - exports or imports of Schedule 1 chemicals except for research, medical, pharmaceutical or protective purposes;
 - exports or imports of Schedules 2 or 3 chemicals for purposes other than purposes not prohibited by the Convention; and
 - exports of Schedule 3 chemicals to persons in States not Party to the Convention without an End-Use Certificate (EUC).
- Notification requirement for exports and imports of Schedule 1 chemicals (see “Declaration Regime”).
- EUC requirement for exports of Schedule 3 chemicals to States not Party to the Convention.
- Permission to import and reexport OPCW inspection equipment used during on-site verification.
- Establish the mechanisms for implementing these requirements.
 - Require the exporter or importer to obtain the National Authority’s authorization prior to export, import, or retransfer of Scheduled chemicals subject to the aforementioned prohibitions.
 - The rules (regulations, decrees, directives) should make clear what activities are prohibited and will not be authorized.
 - Receive notifications and possibly authorize Schedule 1 exports or imports based on their receipt as follows:
 - Establish deadlines for persons to submit notifications of the transfer to the National Authority in time to permit their transmittal to the Technical Secretariat not less than 30 days before any transfer takes place.
 - Exception: transfers of 5 milligrams or less of saxitoxin require a National Authority to notify the Technical Secretariat at the time of the transfer.
 - Possibly establish a procedure to provide written authorization to the exporter or importer prior to the export or import of Schedule 1 chemicals.
 - Collect Schedule 3 EUCs and possibly authorize exports based on their receipt.
 - For example, the exporter must submit an EUC to the National Authority prior to export or within a date certain after export.
 - Upon receipt of an EUC, the National Authority may authorize that such export occur.



- Publish the list of States Parties and/or States not Party to the Convention.
 - For States not Party, identify the ministries or other governmental authorities responsible for issuing EUCs and the addresses for obtaining them, to the extent available.
- Establish low concentration exemptions related to authorized transfers (which may differ from the low concentration exemptions for declarations involving production, processing, consumption, exports, and imports).
 - Schedule 1: None.
 - Schedule 2A/2A*: 1% or less for exports to and imports from States not Party and products identified as consumer goods packaged for retail sale for personal use or packaged for individual use.
 - Schedule 2B: 10% or less for exports to and imports from States not Party and products identified as consumer goods packaged for retail sale for personal use or packaged for individual use.
 - Schedule 3: 30% or less for exports to States not Party and products identified as consumer goods packaged for retail sale for personal use or packaged for individual use.
- Establish an enforcement authority for violations and penalties.
 - Specify and administer penalties for non-compliance with the CWC pursuant to the State Party's penal legislation.
- Establish recordkeeping requirements for documents related to export and import transactions, to include:
 - Specific documents that need to be maintained (e.g., EUCs, notifications, annual declarations of export and imports, authorizations); and
 - Retention policy (e.g., 3 years) of such documents.
- Establish annual reporting requirements to the National Authority on all imports and exports of scheduled chemicals.

COMPLIANCE

- Upon establishing the legal authority to implement the export and import requirements of the CWC, each State Party must develop procedures for monitoring compliance.
- Suggested methods for monitoring compliance include:
 - Verifying that declarations, notifications, and EUCs are received on time and are accurate and complete.
 - Establish domestic deadlines for reporting declarable information to the National Authority prior to the CWC's deadlines in order to verify the data before submitting export and import information to the Technical Secretariat.
 - Cross-check Schedule 1 notifications with the detailed annual



- declaration on transfers of Schedule 1 chemicals.
- Where a notification for a Schedule 1 transfer is received but the transfer did not occur, do not declare it to the Technical Secretariat. However, it is suggested that the Technical Secretariat be informed (e.g., via cover letter with the annual declaration on transfers of notified transfers that did not actually take place).
 - A State Party may want to establish an internal tracking system to ensure consistency between notifications and the annual declaration on transfers.
 - Share Schedule 1 notifications with the States Parties involved in the transfers to ensure that the notifications made to the Technical Secretariat by the sending and receiving States Parties match up.
 - Cross-check Schedule 3 EUCs with the AND declaration.
 - Using export and import authorisation data, if the State Party is issuing export/import authorisations, to verify submitted information.
 - Using Customs data on exports and imports to verify submitted information.
 - Every chemical has been assigned a 6-digit Harmonized System (HS) code and a review of Customs records can provide information on what chemicals were exported or imported (see Annex on Chemicals located in Section 4).
 - While the World Customs Organisation has not established unique HS codes for each Scheduled chemical, it has recommended that States do so nationally.
 - A State Party could require exporters or importers to specify on domestic Customs documents whether a chemical is subject to the CWC to facilitate compliance checks.
 - A State Party could require exporters to specify on documents such as shipping or sales invoices whether a chemical is subject to the CWC to alert a State Party recipient of the need to report the import to their National Authority.
 - Implementing an EUC verification programme.
 - Ensure that the government agency issuing the EUC is the competent authority.
 - Consider establishing a mechanism to monitor and verify the bona fides of the end-user in the non-State Party via verification of business licenses or other means such as in-country verification activities.
 - Identify persons, facilities, and trading companies that may be subject to CWC requirements for export and import controls by:
 - Developing a working relationship with industry by participating in company or association meetings;
 - Reviewing Customs data to identify exporters and importers of chemicals;



- Reviewing publicly available information, such as chemical and trade association directories, regarding producers, users, and traders of chemicals;
- Conducting a survey of all companies that may possibly deal with chemicals subject to export or import;
- Publishing notices of CWC export/import declaration requirements in newspapers, chemical magazines or other appropriate venues; and
- Seeking assistance from the OPCW Technical Secretariat or other States Parties.

OUTREACH

- Conduct seminars or town hall meetings to provide general information and/or “hands-on” instructions to industry on its requirements for declaring exports and imports.
- Publish information pamphlets or brochures that provide guidance on declaring exports and imports.
- Send e-mails or mailings to industry to explain the requirements on declaring exports or imports.
- Establish a “walk-in” office for industry to provide general counseling.
- Establish a CWC-dedicated website or CWC-related link on the National Authority’s website, including links to the OPCW’s website.

